



Impact of the New Legislative Framework (NLF) on product safety: The manufacturers' viewpoint

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INTRODUCTION

- Orgalime is the European federation representing the interests at the level of the EU institutions of the European mechanical, electrical, electronic and metal articles industries as a whole.
- Orgalime's member federations directly or indirectly represent some 130,000 companies of an industry which employs some 10.9 million people across 23 European countries.
- Products have gone on improving at the level of their safety, partly thanks to the New Approach to technical harmonisation.
- This has led to a win-win situation: safer products for workers / consumers and an increasingly open Community market: both the growth of the market and statistics relating to accidents and injuries show this clearly.
- ORGALIME aims at ensuring, as much as possible, that social legislation requirements (*worker-oriented*) do not overlap with those of technical legislation (*market-oriented*). This is particularly relevant with regard to risk-assessment, which falls under the manufacturer's responsibility when he/she places professional equipment (e.g. a machine tool) on the market but falls under the employer's responsibility when the same equipment is used by the workforce.

Why the NLF is crucial for our industry?

MAIN ADVANTAGES OF THE NLF

The new legislative framework (NLF) is a step forward on the road to better regulation, because safety of workers starts with simple and easy-to-understand legislation.

- o The NLF tends to simplify the application of existing product legislation
- o It provides a clear model for future product legislation.
- o It reinforces the status and relevance of the CE-marking.

The NLF establishes a shared responsibility among market operators.

- o It sets common definitions and balances the obligations of manufacturers with those of importers and distributors.

The NLF should help enforcement.

- o The NLF is welcome because it will boost the role of market surveillance and custom controls and the obligations of member states to carry them out.
- o So we see the NLF as paving the way for easier and better compliance.

**HOWEVER THERE ARE MANY CHALLENGES AHEAD
FOR BOTH WORKER SAFETY AND OUR SMEs' COMPETITIVENESS**

The simpler, the better: harmonised enforcement is key to success.

- How will the NLF interface with, on the one hand, product-specific legislation on electrical safety, pressure equipment, machinery, etc.... and on the other hand with user-generic legislation, such as the GPSD and occupational health directives?
- Will the impact assessment that is currently carried out on the revision of the EMF directive for the protection of workers take due account of the NLF?
- Most impact assessments have in the past focused on the cost of regulation to administrations. Focusing more on the administrative and compliance costs for the other stakeholders, such as industry and employers, is essential: the "small business test" should be a must if one is to achieve better regulation.

The simpler, the better: for application of legislation by market operators, compliance to the law should go with simple, cost-effective and workable procedures.

- Worker safety requires a simpler regulatory system. Legislation has become too complex.
- We have product legislation which aims to make products on the market safe, for all: the standards exist; the conformity assessment procedures exist: what we need is that authorities apply the necessary checks when carrying out their market surveillance and work inspection duties.
- Is certification by third party the solution? Certification can help to handle the complexity of risk assessment, but only as a business service to manufacturers or administrations. Because it has a cost that inevitably has to be paid for.
- In the end it is the manufacturer, not the certifier, who bears the liability for his product and the responsibility for his supply chain.

The more credible it is, the safer it is: On the side of efficiency of the checks and controls chain, real harmonised enforcement is the key to worker safety.

- The approach to controls, whether by customs, market surveillance authorities or worker inspectorates should be much more co-ordinated and consistent with handling the concepts of 'safety', 'hazard' and 'risk assessment'. Much greater use should be made of existing tools such as harmonised standards, the supplier's declaration of conformity and peer-reviewed risk evaluation methodologies;
- Why should regulators think of outsourcing their responsibility to a third-party certifier, when there is no certainty that private marks are a plus in the area of actual worker safety and compliance to legislation (due to rogue trading and forging of certification marks and certificates)?
- Member States' accreditation bodies have no investigative powers to verify the quality of certification carried out by test houses outside the EU, where often non conforming products are made.
- Therefore in our view, the main challenge that we face today is to ensure that all products placed on our market are compliant with EU legislation, so that they are safe for workers and other users, safe for the environment and safe... for the competitiveness of our companies.
- We just need an all embracing framework which leads to better market surveillance through better collaboration at a national level between the different authorities: customs, health and safety inspectors at the work place, consumer protection officials, environmental agencies, etc...